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OGC 62-1724(a)

13 AUG 1962

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MEMORANDUM FOR: Deputy Director (Support)

SUBJECT: Scientific and Technical Training
for OSI Personnel on Duty Less
than One YearREFERENCE: Memo to DD/S fr DTR dtd 27 July 62,
same subject

1. You have requested our comments on the referenced memorandum, which, in referring to the request of the Office of Scientific Intelligence that certain of its personnel be exempted from the one-year-prior-service requirement, suggests that in view of the action taken by the Civil Service Commission in liberalizing its rules with respect to employee training an opinion of this Office dated 14 August 1959 might warrant reconsideration.

2. The Government Employees Training Act (5 U. S. C. A., section 2301 et seq.) provides:

"No employee having less than one year of current, continuous civilian service in the Government shall be eligible for such training [at a non-Government facility] unless the head of his department determines, in accordance with regulations of the Commission, that such training for such employee is in the public interest." (section 2311(a)(2))

In our opinion of 14 August 1959 we advised the exemption granted to the Agency by Executive Order 10805 notwithstanding, the ultimate decision of hiring an economist to be placed directly in training at a non-Government institution was one to be made by the Director of Central Intelligence. We reaffirm that position here.

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3. As we understand the OSI's proposal, it seeks authority to assign selected scientific and technical personnel engaged in the assessment of foreign developments to non-Government training subsequent to their having entered on duty and having completed certain OTR courses and office orientation but prior to having fulfilled the one year of service requirement. To the extent that such personnel will have completed some portion of a year's service, we believe this case to be distinguishable from the one considered in our opinion of 14 August.

4. On the subject of waiver of limitations on training at non-Government facilities, the Commission regulation now reads:

"Subject to other provisions of the Act and the regulations in this part, an employee having less than one year of current, continuous civilian service in the Government shall be eligible for training by, in, or through non-Government facilities upon a finding by the head of his department that postponement of the training until the employee has completed one year of current, continuous civilian service in the Government would be contrary to the public interest." (Federal Personnel Manual, Chapter T-1, section 39.305, dated 14 February 1962)

While the explanatory note to this regulation sets forth the caveat that it is not to be interpreted as authorizing unlimited waivers to circumvent the clearly-expressed intent of the Congress, it does specify as one type of training whose postponement might be contrary to the public interest: "Training essential to intelligence . . . activities." Thus, we believe, subject to a determination having been made by the DCI or his designee, that the training proposed is essential to intelligence activities, the OSI personnel selected may be assigned for non-Government training prior to having completed one year of current, continuous service. Of course, the Commission's issuance of 14 February in no way affects that provision of the Act which prohibits the assignment for training to obtain academic degrees.

5. Referenced memorandum and the OSI proposal are returned.


Assistant General Counsel

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Attachments

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